

# Katten

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July 16, 2024

## VIA ECF

Magistrate Judge Peggy Kuo  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: *State Farm Mut. v. Metro Pain*, 1:21-cv-05523 – Motion to Disqualify Counsel for Damon Minus [Dkt. 559] and Deposition of Damon Minus**

Dear Judge Kuo:

Plaintiffs State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company (collectively, “Plaintiffs”) respectfully request the Court grant as unopposed their Motion to Disqualify Counsel for Nonparty Damon Minus (Dkt. 559) (the “Motion to Disqualify”) and order Minus to appear and testify at a deposition to occur at the law offices of Katten Muchin Rosenman LLP by a date certain.<sup>1</sup>

Plaintiffs served a subpoena *ad testificandum* on Minus on March 27, 2024. Plaintiffs were initially contacted by John Vieira, Esq. to schedule a date for Minus’s deposition, and later contacted by Nima Ameri, Esq. who advised he represents Minus in his individual capacity and Mr. Vieira does not represent Minus. Plaintiffs then noticed and served a new subpoena for Minus to appear and testify at a deposition on June 21. Due to Mr. Ameri’s representation of defendants Yan Moshe, Regina Moshe, M.D., and corporate defendants owned by each, and his role as a board member of defendant Hudson Regional Hospital, on June 20, Plaintiffs moved to disqualify Mr. Ameri as counsel for Minus. *See* Dkt. 559. On June 26, this Court ordered Minus to respond to the Motion to Disqualify “prior to the deposition of Mr. Minus on June 21, 2024.” On June 21, Mr. Ameri filed a letter with the Court requesting an extension of time to respond to the Motion to Disqualify and for leave to move for a protective order. Dkt. 560. Plaintiffs opposed Mr. Ameri’s requested relief arguing his June 21 submission constituted a substantive response to the motion and the record before the Court was sufficient to disqualify Mr. Ameri from representing Minus (Dkt. 561), to which Mr. Ameri responded on June 24 (Dkt. 562). On June 26, the Court entered an Order establishing a deadline of July 10, 2024, by which Minus must file an opposition to the Motion to Disqualify and file any cross motion for a protective order.

Minus has failed to file any briefing in opposition to the Motion to Disqualify by the July 10 deadline, he has not requested any extension to the so-ordered deadline, and he has not otherwise contacted the Court or Plaintiffs regarding his failure to meet the deadline. Mr. Ameri cannot claim ignorance of the Court’s schedule requiring his opposition by July 10, 2024. He is the one who requested the extension and certainly must be presumed to have inquired as to the

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<sup>1</sup> The subpoena served on Mr. Minus identifies the deposition location as Katten Muchin Rosenman’s law offices at 50 Rockefeller Plaza, New York, NY 10020-1605.

result of his request. More fundamentally, Local Civil Rule 1.4 requires attorneys to file a notice of appearance promptly upon the attorney's first filing in the case, which if he followed after his first filing on June 21, would have resulted in his receiving automatic electronic notice of the granting of his request and the schedule. *See* Dkts. 560, 562. As Plaintiffs' Motion to Disqualify is unopposed, it should be granted and Mr. Ameri discharged as counsel to Minus. Moreover, because Minus did not move for any relief from Plaintiffs' subpoena requesting his deposition, the Court should order Minus to appear and testify at a deposition by a date certain.

Accordingly, Plaintiffs respectfully request the Court enter an order granting the Motion to Disqualify, discharging Mr. Ameri as counsel for Minus, and directing Minus to appear and testify at a deposition to occur at 50 Rockefeller Plaza, New York, NY by a date certain.

Respectfully submitted,

*/s/ Jonathan L. Marks*

Jonathan L. Marks

**CERTIFICATE OF SERVICE**

I, Christopher T. Cook, an attorney, hereby certify that on July 16, 2024, I served the foregoing letter on the following counsel of record by email:

Nima Ameri, Esq. (by electronic mail to Nima.Ameri@amerilawfirm.com)

John Vieira, Esq. (by electronic mail to jvieira@popular.com)

*/s/ Christopher T. Cook*  
*Attorney for Plaintiffs State Farm*  
*Mutual and State Farm Fire*